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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF UTAH**

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**TAE CHON,**

**Plaintiff,**

**v.**

**UNITED STATES of AMERICA,  
et al.,**

**Defendants.**

**ORDER AFFIRMING & ADOPTING  
REPORT & RECOMMENDATION**

**Case No. 2:16-CV-187-DAK-CMR**

**Judge Dale A. Kimball**

**Magistrate Judge Cecilia M. Romero**

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This case was assigned to United States District Court Judge Dale A. Kimball, who then affirmed the prior reference to United States Magistrate Judge Cecilia M. Romero under 28 U.S.C. § 636(b)(1)(B).<sup>1</sup> On January 15, 2021, Magistrate Judge Romero issued a Report and Recommendation [ECF No. 76], recommending that Plaintiff's First Amendment retaliation claim be dismissed without prejudice. The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. Plaintiff has not submitted an objection as of the date of this Order, which is twenty-seven days past the issuance of the Report and Recommendation. The court, therefore, assumes the deadline for submitting an objection has passed.

A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the

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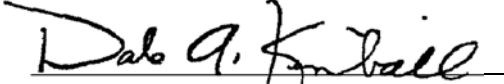
<sup>1</sup> This case was initially assigned to Judge Dee Benson and was reassigned after his death to the undersigned judge.

Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Romero's recommendations for dismissing Plaintiff's First Amendment retaliation claim. Parts of Plaintiff's claim fails to state a cognizable injury and the remainder of his claim fails to plausibly state causation. The court also agrees that allowing Plaintiff to amend his claim would be futile given that he has already had an opportunity to cure his pleading deficiencies. However, because of the finding that amendment would be futile, the court dismisses the claim with prejudice.

Therefore, the court adopts and affirms Magistrate Judge Romero's Report and Recommendation as to dismissal of Plaintiff's First Amendment retaliation claim but dismisses the claim with prejudice. Because the dismissal of Plaintiff's First Amendment claim resolves all the claims in this action, the court dismisses this action with prejudice.

DATED this 11th day of February, 2021.

BY THE COURT:

  
DALE A. KIMBALL  
United States District Judge